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Firm File No: 12-L0417
Attorneys for Defendant
BANK OF AMERICA, N.A.

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Joshua D. Randall and Karen Randall,
husband and wife,

Plaintiffs,

vs.

BANK OF AMERICA, N.A., a
National Banking Association,

Defendant

Case No.:

(Formerly in the San Tan Justice Court
of the State of Arizona in and for the
County of Maricopa, No: CC2012-
169786

NOTICE OF REMOVAL

**TO THE CLERK OF THE UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF ARIZONA:**

PLEASE TAKE NOTICE that Defendant, BANK OF AMERICA, N.A. by their
undersigned, counsel, Steven E. Stern, Esq. of Miles, Bauer, Bergstrom & Winters, LLP,
and hereby remove the above-captioned state court action to The United States District
Court for the District of Arizona for the reasons described below:

THE REMOVED ACTION

1. On August 24, 2012, Plaintiffs, Joshua D. Randall & Karen Randall as husband
and wife commenced the above-captioned action in the Prescott Justice Court with the
filing of two pro per complaints alleging a violation of the Fair Credit Report Act on the
part of Defendant, Bank of America, N.A. in case no: 2012-10051 & 2012-10052. A

1 third case was then filed by the Plaintiffs pro per in the San Tan Justice Court of
2 Maricopa County, Arizona under CC2012-169786.

3 2. Plaintiffs then retained counsel who dismissed the actions pending in Prescott
4 Justice Court and filed a motion on Dec. 6, 2012 for leave to file an Amended Complaint
5 alleging violations of the Fair Credit Reporting Act on the part of Defendant.
6

7 3. The San Tan Justice Court Docket attached hereto as Exhibit A never indicated if
8 the order granting the Amended Complaint was not entered nor has Defendants counsel
9 as of the preparation of this removal action ever received such an Order. Defendants
10 counsel for the first time on January 22, 2013 learned from the attorney for Plaintiff that
11 the order was entered on Dec. 17, 2012. Defendants confirmed this in a telephone call to
12 the San Tan Justice Court.
13

14 3. Plaintiffs allege that the Defendants have violated a federal statute the Fair Credit
15 Reporting Act, 15 U.S.C. 1681, et. seq. and plaintiffs claim actual, statutory, punitive
16 damages and attorneys' fees.
17

18 **FEDERAL QUESTION JURISDICTION EXISTS**

19 4. The State Court Action constitutes a removable civil action under 28 U.S.C.
20 Sec. 1441 because Plaintiffs Complaint involves federal question claims under the Fair
21 Credit Reporting Act, 15 U.S.C. 1681, et. seq.
22

23 **NOTICE OF REMOVAL IS TIMELY**

24 5. Removal is timely pursuant to 28 U.S.C. Sec. 1446(b) because Defendants are
25 timely filing this Notice of Removal within thirty (30) days of its notice of the granting of
Plaintiffs Motion to Amend their Complaint.

NOTICE GIVEN

6. Removing Defendants certifies that pursuant to 28 U.S.C. Sec. 1446(d) and LRCiv. 3.7(a), it is giving written notice of removal to all named parties to this suit and is filing a copy of this Notice of Removal with the Clerk of the San Tan Justice Court of Maricopa County, Arizona.

PLEADINGS AND PROCESS

7. Pursuant to 28 U.S.C. Sec. 1446(a) and LRCiv. 3.7(b) a true and complete copy of all pleadings, orders and other documents that were previously filed in the State Court are attached hereto as Exhibits B which at this time consists of the original pro per complaints filed by Plaintiff, Motion for Leave to File an Amended Complaint and Amended Complaint filed by the Plaintiffs counsel.

RULE 11 CERTIFICATION

8. This Notice of Removal is signed pursuant to Rule 11, Federal Rules of Civil procedure in accordance with 28 U.S.C. Sec. 1446(a) and LRCIV 3.7.

ADDITIONAL BRIEFING

9. If any question arises as to the propriety of this removal, Defendants request the opportunity to brief any disputed issues and to present oral argument in support of its position that this case is properly removed. Defendants also reserve the right to supplement this Notice of Removal as appropriate.

NON-WAIVER

10. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of Defendants rights to assert any defense or affirmative matter.

1 WEHREFORE, Defendant, Bank of America, N.A. remove this case from the San
2 Tan Justice Court, of Maricopa County, Arizona to this Honorable Court.

3
4 **RESPECTFULLY SUBMITTED this 22nd day January, 2013.**

5 MILES BAUER BERGSTROM &
6 WINTERS, LLP

7 **By: /s/ Steven E. Stern, Esq.**

8 Steven E. Stern, Esq., SBN 20022

9 2200 Paseo Verde Parkway, Suite 250

10 Henderson, NV 89052-2704

11 Attorneys for Defendant

12 **CERTIFICATE OF SERVICE**

13 I, Steven E. Stern, one of the Attorneys for Defendants do hereby affirm that on
14 the 23rd day of January, 2013 I caused the foregoing **NOTICE OF REMOVAL** to be
15 served on the following addresses via regular mail proper postage pre-paid by depositing
16 same in the United States mail located at Henderson, NV and also by forwarding same
17 via electronic mail to:

18 Ms. Rochelle Belnap, Esq.

19 Belnap & Forbes, PLLC

20 PO Box 1597

21 Chandler, AZ 85244

22 Attorney for Plaintiff

23 /s/ Steven E. Stern

24 Steven E. Stern